

EXHIBIT A

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

J.G. OGLE
1307 Camille
Liberty, MO 64068

Plaintiff,

v.

HOOTERS, INC., D/B/A HOOTERS
OF AMERICA, LLC., A/K/A HOOTERS OF
NORTH KANSAS CITY
6411 NW Barry Rd.
Kansas City, MO 64154

Serve: Brian McCabe
6411 NW Barry Rd.
Kansas City, MO 64154

Defendant.

Case No.

JURY TRIAL DEMANDED

PETITION

I. Preliminary Statement

1. COMES NOW, Plaintiff, J. Ogle, by and through her attorneys of record, Kevin Baldwin, Eric Vernon, Sylvia Hernandez, and Robin Koogler of Baldwin & Vernon, and brings this cause of action against Hooters, Inc. d/b/a Hooter's of America, Inc., hereinafter referred to as "Defendant Company." This action seeks declaratory, injunctive and equitable relief, actual, compensatory and punitive damages, and costs and attorneys' fees in accordance with R.S.M.o §213 *et. seq.*, and under Missouri Common Law for Defendant Company's conduct and actions taken against Plaintiff.

II. Jurisdiction

2. Plaintiff is alleging claims of employment discrimination and retaliation under the Missouri Human Rights Act (MHRA), 213.010, *et seq.*, R.S.MO., for discrimination based upon

race and retaliation.

3. Jurisdiction is invoked pursuant to §213.010 *et seq.* R.S.MO. A Right-To-Sue letter was issued by the Missouri Commission on Human Rights (MCHR) on January 26, 2021. The Right-To-Sue Letter, including a copy of Plaintiff's original charges filed with the Equal Employment Opportunity Commission and the MCHR, is attached hereto as exhibit 1 and the facts and circumstances stated therein are hereby incorporated as if fully set forth herein.

4. The Plaintiff, based upon reasonable belief at this time absent discovery, indicates that the amount of compensatory and/or special damages in controversy is in excess of \$25,000.00; in addition, Plaintiff seeks declaratory, injunctive and equitable relief, as well as punitive damages, pursuant to §213.010 *et seq.* R.S.MO. Costs and attorneys' fees may be awarded pursuant to §213.010 *et seq.* R.S.MO. and are requested by Plaintiff.

III. Venue

5. This action properly lies in the Circuit Court of Platte County, Missouri, pursuant to §213.010 *et seq.* R.S.MO., because the claim arose in this judicial district, and because unlawful employment practices were committed in this judicial district.

IV. Parties

6. Plaintiff is a resident of the United States residing at 1307 Camille, Liberty, MO 64068.

7. Defendant Hooters, Inc. d/b/a Hooter's of America, Inc., hereinafter referred as "Defendant Company," is an employer engaged in an industry affecting commerce, and, upon information and belief, employs more than 100 regular employees. Defendant Company is a corporation, (containing within its charter the requisite authority to sue and be sued), and does business in this judicial district, doing business at various locations located within Platte County, Missouri, at relevant times referred to herein, and specifically at 6411 NW Barry Rd. Kansas City, MO 64154.

Defendant Company is an employer within the meaning of §213.010, *et seq.*, R.S.MO. Defendant Company is subject to the MHRA's prohibition on employment discrimination and retaliation for its employees.

8. Prior to filing this Petition for Damages, Plaintiff sought administrative relief through the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights to no avail and exhausted all required administrative procedures prior to filing this Petition for Damages.

V. Facts Common to All Counts

9. Plaintiff, J. Ogle, is a 26-year-old, Caucasian, female, who worked for Hooters, Inc. d/b/a Hooter's of America, Inc. ("Defendant Company") for over five years.

10. On or about Monday, January 13, 2020, Plaintiff and her co-worker Meredith were making TikTok videos.

11. Meredith had suggested to Plaintiff that they use a certain sound along with a viral song that other Hooter's Girls had been using to make similar videos.

12. Plaintiff and Meredith made the video with those specifications.

13. The following morning, on or about Tuesday, January 14, 2020, Plaintiff woke up to a text from her manager, Shawn Sunny, saying that there was an anonymous complaint to Human Resources regarding our TikTok video and that it included racial slurs.

14. Mr. Sunny told Plaintiff to try and find some of the other TikTok videos using the song and including other Hooter's Girls.

15. Plaintiff found the related videos and sent them to Mr. Sunny, and he gave Plaintiff the regional managers number to forward them to.

16. After Plaintiff sent the videos she talked to Brian McCabe on the phone and he told Plaintiff he did not know what was going to happen, but that Plaintiff would likely be terminated.

17. Mr. McCabe told Plaintiff to hold tight and that he and his boss (Tony) were fighting for her.

18. Plaintiff mentioned that she might just quit versus being terminated and Brian instructed her not to.

19. For the remainder of that week, Plaintiff continued to go to work.

20. Mr. Sunny and Mr. McCabe instructed Plaintiff that Human Resources was going to write her up with a final written warning over the situation.

21. The following Monday, Mr. McCabe called Plaintiff to congratulate her for being on a billboard, he also told Plaintiff that he had bad news.

22. The legal department was pushing for Plaintiff's termination.

23. Plaintiff and Mr. McCabe then made the decision that the best course of action was for Plaintiff to resign as that was her best option for rehire.

24. Plaintiff was instructed that if she resigned, she could be rehired within 90-days.

25. Plaintiff waited a few weeks after resigning and then reached out to Mr. McCabe and Mr. Sunny and inquired about rehiring.

26. Both managers stated that they no longer knew if rehiring was an option and that they would have to talk to corporate.

27. It is Plaintiff's belief that the other Hooter's Girls who participated in the TikTok videos are African American and received no discipline for participating.

28. These Hooter's Girls not only made the same or very similar videos; they also tagged "Hooter's Girls" in the video description.

29. It is Plaintiff's belief that she was discriminated against and constructively discharged on the basis of her race.

30. Defendant Company continued to use Plaintiff's image in their adds well after her constructive discharge.

31. There are a minimum of 36 pictures of Plaintiff on Defendant Company's website as of the date of filing this Petition for Damages.

32. Plaintiff has experienced, is now experiencing, and will continue to experience into the indefinite future, garden variety emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses as a direct result of Defendant Company's conduct.

33. Plaintiff has suffered and will continue to suffer future pecuniary losses as a direct result of Defendant Company's conduct.

34. Defendant Company and its managers and other employees actively engaged in discrimination against Plaintiff with malice or in reckless indifference to her right to be free from such discrimination under the MHRA.

VI. Causes of Action

COUNT I

RACIAL DISCRIMINATION **AGAINST DEFENDANT COMPANY**

35. Plaintiff hereby incorporates and re-alleges all previously alleged Paragraphs as if fully set forth herein.

36. Defendant Company's actions, as noted above, constituted a pattern and practice of racial discrimination against Plaintiff in violation of the MHRA.

37. Defendant Company's actions, as noted above, were discriminatory, continuous, arbitrary, and capricious and constituted a disparity in treatment toward Plaintiff as compared to similarly situated individuals who were not Caucasian and, as such, Defendant Company's actions were unlawful employment practices in violation of the MHRA.

38. Defendant Company considered Plaintiff's race as a motivating factor in the decision to treat her disparately, by subjecting her to unfair treatment, being subjected to unwarranted discipline, and ultimately terminating her. Furthermore, Defendant Company failed to provide a workplace free of racially charged comments directed towards Plaintiff.

39. At the time these actions were taken by Defendant Company, Defendant Company's actions were outrageous because of their evil motive or reckless indifference to the rights of the Plaintiff and others to be free from such discrimination.

40. Defendant Company's actions were unlawful employment practices in violation of the MHRA.

41. Plaintiff has been damaged by Defendant Company's unlawful employment actions.

COUNT II

RETALIATION **AGAINST DEFENDANT COMPANY**

42. Plaintiff hereby incorporates and re-alleges all previously alleged Paragraphs as if fully set forth herein.

43. Plaintiff hereby alleges claims of retaliation against Defendant Company.

44. Defendant Company's actions, as noted above, constituted retaliation against Plaintiff in violation of the MHRA.

45. Plaintiff's actions of complaining of what she believed to be acts in violation of the Missouri Human Rights Act as set forth herein was a motivating factor in the Defendant

Company's decision to retaliate against him by treating him differently, subjecting him to a hostile work environment, subjecting him to a heightened level of scrutiny, setting him up to fail, and/or terminating him from her employment with Defendant Company.

46. At the time these actions were taken, Defendant Company knew that their actions were unlawful, and Defendant Company's actions were undertaken maliciously and/or in reckless disregard for Plaintiff's right to be free from discrimination.

47. Defendant Company's actions were outrageous because of their evil motive or reckless indifference to the rights of the Plaintiff when they engaged in acts of retaliation against the Plaintiff that culminated in her termination.

48. Plaintiff has been damaged by Defendant Company's unlawful employment actions in violation of the MHRA.

VII. Prayer for Relief

49. Wherefore, Plaintiff prays that this Court:

- a. declare the conduct engaged in by Defendant Company to be in violation of Plaintiff's rights;
- b. enjoin Defendant Hooters, Inc. d/b/a Hooter's of America, Inc., and its managers/supervisors from engaging in such conduct;
- c. restore Plaintiff to her rightful position with Hooters, Inc. d/b/a Hooter's of America, Inc. or, in lieu of reinstatement, order front salary and benefits for the period remaining until normal retirement;
- d. award Plaintiff equitable relief of back salary and fringe benefits up to the date of reinstatement and prejudgment interest for that entire period or front salary and benefits accrual;

- e. award Plaintiff compensatory, punitive and liquidated damages against Defendant Company;
- f. award Plaintiff damages for emotional pain and suffering;
- g. award Plaintiff her costs and attorneys' fees; and
- h. grant such other relief as it may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff demands trial by jury on all issues triable by a jury in this complaint.

Respectfully submitted,

By: /s/ *Robin Koogler*

Kevin Baldwin, MO Bar No. #49101

Eric Vernon, MO Bar No. #47007

Sylvia Hernandez, MO Bar No. #70670

Robin Koogler, MO Bar No. #71979

BALDWIN & VERNON

108 S Pleasant St.

Independence, MO 64050

Tel: (816) 842-1102

Fax (816) 842-1104

Kevin@bvalaw.net

Eric@bvalaw.net

Sylvia@bvalaw.net

Robin@bvalaw.net

ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

J.G. OGLE
 1307 Camille
 Liberty, MO 64068

Plaintiff,

v.

**HOOTERS, INC., D/B/A HOOTERS
 OF AMERICA, LLC., A/K/A HOOTERS OF
 NORTH KANSAS CITY**
 6411 NW Barry Rd.
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Serve: Brian McCabe
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Case No.

JURY TRIAL DEMANDED

REQUEST FOR SPECIAL PROCESS SERVER

COMES NOW the Plaintiff J.G. Ogle through counsel pursuant to Missouri Rule of Civil Procedure No. 54.13, and requests appointment of Randy Adkins, who is not a party to this action, to serve Petition and Summons on all Defendants, for ease of service.

Respectfully submitted,

By: /s/ Robin Koogler

Kevin Baldwin, MO Bar No. #49101
 Eric Vernon, MO Bar No. #47007
 Sylvia Hernandez, MO Bar No. #70670
 Robin Koogler, MO Bar No. #71979
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JURY TRIAL DEMANDED

ORDER APPOINTING SPECIAL PROCESS SERVER

On the _____ day of _____, 2021, the Court having considered Plaintiff's Request for Appointment of Special Process Server, and for good cause shown, said motion is sustained. It is ordered that Randy Adkins is appointed Special Process Server herein for the purposes of serving the Petition and Summons on Defendants.

 Date

 Judge of the Court

FILED
2/25/2021
08:18 AM
KIMBERLY K. JOHNSON
CIRCUIT CLERK
PLATTE COUNTY, MO

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

J.G. OGLE
1307 Camille
Liberty, MO 64068

Plaintiff,

v.

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NORTH KANSAS CITY
6411 NW Barry Rd.
Kansas City, MO 64154

Serve: Brian McCabe
6411 NW Barry Rd.
Kansas City, MO 64154

Defendant.

Case No.

JURY TRIAL DEMANDED

ORDER APPOINTING SPECIAL PROCESS SERVER

On the 25th day of February, 2021, the Court having considered Plaintiff's Request for Appointment of Special Process Server, and for good cause shown, said motion is sustained. It is ordered that Randy Adkins is appointed Special Process Server herein for the purposes of serving the Petition and Summons on Defendants.

Thursday, February 25, 2021
Date



/s/ Kimberly K. Johnson C.C. by Lindsey D. Burris D.C.
Judge of the Court



IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

NOTICE
SETTING ON CALENDAR

STATE OF MISSOURI)
) ss
COUNTY OF PLATTE)

CASE NO: 21AE-CC00040
NATURE OF SUIT: CC Employmnt Discrmntn 213.111

J G OGLE
Plaintiff/Petitioner

v.

HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS
Defendant/Respondent

TO:

J G OGLE 1307 CAMILLE LIBERTY, MO 64068	HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS SERVE BRIAN MCCABE 6411 NW BARRY ROAD KANSAS CITY, MO 64154	ROBIN ANNE KOOGLER 108 S PLEASANT INDEPENDENCE, MO 64055	
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You are hereby notified that the referenced case has been set on the calendar as follows:

Division: DIVISION 1 COURT ROOM
Date: 04-JUN-2021
Time: 09:00 AM
Setting: 90 DAY DOCKET CALL

Date: 25-FEB-2021

Kimberly K. Johnson
Circuit Clerk, Platte County




IN THE 6TH JUDICIAL CIRCUIT, PLATTE COUNTY, MISSOURI

Judge or Division: THOMAS C FINCHAM	Case Number: 21AE-CC00040	(Date File Stamp)
Plaintiff/Petitioner: J G OGLE	Plaintiff's/Petitioner's Attorney/Address ROBIN ANNE KOGLER 108 S PLEASANT INDEPENDENCE, MO 64055	
Defendant/Respondent: HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS	Court Address: 415 3RD STREET SUITE 5 PLATTE CITY, MO 64079	
Nature of Suit: CC Employmnt Discrmntn 213.111		

Summons in Civil Case

The State of Missouri to: HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS
Alias:

SERVE BRIAN MCCABE
 6411 NW BARRY ROAD
 KANSAS CITY, MO 64154
 COURT SEAL OF



PLATTE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

Thursday, February 25, 2021 /s/ Kimberly K. Johnson C.C. by Lindsey D. Burris D.C.
 Date Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).
- ☐ other: _____.

Served at _____ (address)
 in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____ Date Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



IN THE 6TH JUDICIAL CIRCUIT, PLATTE COUNTY, MISSOURI

Judge or Division: THOMAS C FINCHAM	Case Number: 21AE-CC00040
Plaintiff/Petitioner: J G OGLE	Plaintiff's/Petitioner's Attorney/Address ROBIN ANNE KOOGLER 108 S PLEASANT INDEPENDENCE, MO 64055
Defendant/Respondent: HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS	Court Address: 415 3RD STREET SUITE 5 PLATTE CITY, MO 64079
Nature of Suit: CC Employmnt Discrimntn 213.111	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: HOOTERS, INC., D/B/A HOOTERS OF AMERICA, LLC, A/K/ HOOTERS
Alias:

SERVE BRIAN MCCABE
6411 NW BARRY ROAD
KANSAS CITY, MO 64154
COURT SEAL OF



PLATTE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

Thursday, February 25, 2021

Date

/s/ Kimberly K. Johnson C.C. by Lindsey D. Burris D.C.

Clerk

Further Information:

Sheriff's or Server's Return

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I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: Shawn Sonne (name) Training General Manager, Hooters, Inc. (title).
- ☐ other: _____

Served at 6411 NW Barry Road, Kansas City, Mo. 64154 (address)
in Platte (County/City of St. Louis), MO, on February 26, 2021 (date) at 2:57 pm (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

ANN MARIE ADKINS

Notary Public - Notary Seal

Clay County - State of Missouri

Commission Number 13462461

My Commission Expires Apr 24, 2021

Subscribed and sworn to before me on 2/26/2021 (date).

My commission expires: 4/24/2021 Date

Ann Marie Adkins Notary Public

Sheriff's Fees, if applicable

Summons	\$	55.00
Non Est	\$	
Sheriff's Deputy Salary		
Supplemental Surcharge	\$	10.00
Mileage	\$	22.80 (38 miles @ \$.60 per mile)
Total	\$	77.80

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

REJIS Private Access Network

2/25/2021 9:30 AM

Driver History

Past Convictions All

DOR Driver

THIS RECORD IS RESTRICTED UNDER THE FEDERAL DRIVER'S PRIVACY PROTECTION ACT

Name MCCABE, BRIAN MICHAEL

Status

OLN S211258021

License VALID

Commercial None

School Bus None

Sex M

DOB 09/11/1968

Age 52

Hgt 5' 11"

Wgt 200

Eyes HAZEL

Address

Residence 2116 JENNIFER CT
KEARNEY, MO 64060Current 2116 JENNIFER CT
KEARNEY, MO 64060

License

License Class F - NON-COMMERCIAL

Expiration 09/11/2024

Last Updated 08/07/2018 Sequence 180152140023

Current License VALID

Type of Previous Commercial Class A - COMMERCIAL CLASS

Surrendered To

Date Surrendered

Special Issuance Effective

RDPA-Special Restricted Driving Privilege

Expires

Endorsements and Restrictions

Code	Endorsement	Code	Restriction
M	MOTORCYCLE	A	CORRECTIVE LENSES

Previous Names

Last Name	First Name	Middle Name	Suffix
MCCABE	BRIAN	MICHAEL	

Out of State AKA Information

State	Driver License Number	Last Name	First Name	Middle Name	Gen	DOB
IL	M21007368259	MC CABE	BRIAN	MICHAEL		
OR	9641339					
IN	4660180905					

End of Record